

REMARKS AND ARGUMENTS

1. Claims 1,3 and 6 are rejected under 35 USC 103(a) as being unpatentable over Wenkman et al (4697780) in view of Naylor (1741136) or Wilkinson (451097).

The Examiner states that Wenkman teaches a vertical arm having an upper and lower portion, a shaped tongue 59 being downwardly folded and providing forming an open hook. The Examiner states that Wenkman meets all claimed limitations except for receptacle holder being a horizontal member having clasps at 180 degree apart. The Examiner states that either Naylor or Wilkinson teaches that it is known in the art to provide a receptacle holder comprising a horizontal member as shown in Fig. 6 and 2, respectively. Therefore the Examiner concludes that it would have been obvious to one of ordinary skill in the art to provide a horizontal member having two clasps at 180 degrees apart to enable one to carry additional receptacles.

The applicant has amended claim 1, and believes the claim is allowable as it currently stands based on the following:

Wenkman does not disclose a hook (element 12 in Figure 4 of the current application) enabling the plumber to adjust the device on a belt.

In the current invention the hook is an important element so as to stabilize the device to a belt. Nothing in Wenkman or in any one of the publications cited by the Examiner, points toward such a hook. On the contrary, such a hook would have been merely unpractical or even impossible in the invention of Wenkman, because the idea of Wenkman is to attach the arm on wall or other surface through the keyhole opening (50).

Moreover, Wenkman does not disclose an elongated portion with predetermined dimension at the lower end, thereby providing more stability for the device. As is described in the application page 5 lines 22-23 and page 6 lines 1-2, the purpose of the free elongated portion at the lower end of the vertical arm is to maintain the vertical position of the containers, to bring support and balance for entire frame and avoid oscillations and spills from the cans. Such a stabilizing portion would be unnecessary in Wenkman, where the purpose is to fix the holder in one place; not to move with the holder like in the current application.

Based on the above said, combination of Wenkman and Naylor or Wilkinson, would not have resulted to the current invention.

Furthermore, the Federal Circuit has stated that ‘obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination” In re Geiger, 815, F.2d. 686, 2 USPQ 2d, 1276, 1278 (Fed, Cir. 1987). The suggestion must come from the prior art. Here, there is nothing in the cited publications that would suggest combining the teachings. Especially true this is as Naylor is about improvement in card-table trays and Wilkinson about combined bottle and drinking-glass holder for stabilizing the bottle and the glass on a table. As is stated In re Fritch 972 F. 2d 1260, 23 USPQ 2d 1780 (Fed. Cir 1992): “The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.”

Moreover, the Applicant wish to point out that a simple invention, such as the present one, does not become obvious when prior art elements are from unrelated or non analogous field. The combination of elements from non –analogous sources, in a manner that reconstruct the applicant’s invention only with the benefit of hindsight, is insufficient to present a *prima facie* case of obviousness (In re. Oetiker, 977 F. 2d 1443, 24 USPG 2d 1443 Fed Cir 1992). Here, as mentioned above Naylor is about improvement in card-table trays and Wilkinson about combined bottle and drinking-glass holder for stabilizing

the bottle and the glass on a table. Both of these inventions are of non analogous art. Someone skilled in the art looking for solution for a light and simple design for plumber to hold the cans and allowing the plumber a freedom to move in locations with limited space, would not seek solution from art of attaching items in fixed position on tables.

Based on the above said, the applicant believes that claim 1 is allowable and respectfully request reconsideration of allowing the claim. The applicant has deleted claims 3 and 6.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Wenkman rejection as set forth in first paragraph, and further in view of Tully (5501176). The Examiner states that Tully teaches that it is known in the art to provide a connection having rectangular holes. Therefore, the examiner states it would have been obvious to one of ordinary skill in the art to provide a through rectangular hole in Wenkman as thought by Tully to provide alternative attachment means.

The Applicant believes that claim 2 as now amended is allowable based on the following:

The Applicant raises the same arguments against Wenkman rejection as stated above. Moreover, the applicant wishes to point out, that because Wenkman invention is meant to be attached on wall or other surface via the keyhole opening (50). The keyhole opening of Wenkman locates in the tongue part of the arm. In the current invention the aperture locates in the vertical portion (not in the tongue) of the arm. There would have been absolutely no incentive to modify the invention of Wenkman so as to have an aperture at the vertical part of the arm.

Tully discloses a pet feeding apparatus with a handle (13). The handle in Tully is not used for attaching the apparatus anywhere but for lifting the apparatus. Therefore, the seemingly rectangular hole in Tully invention is not comparable to the rectangular hole in the current application. Moreover, the applicant again sites In re Oetiger that "The combination of elements form non –analogous sources, in a manner that reconstruct the

applicant's invention only with the benefit of hindsight, is insufficient to present a *prima facie* case of obviousness". The invention of Tully is about a pet feeding apparatus which is non analogous to the art of the current invention and therefore one skilled in art would not have sought solutions from Tully.

Based on above said, the applicant believes that claim 2 as amended is allowable and respectfully requests reconsideration of the rejection.

3. Claim 4 is rejected under 35 USC 103 (a) as being un patentable over the Wenkman rejection as set forth in first paragraph, and further in view of Wetterings et al (5655673). The Examiner states that it would have been obvious to one of ordinary skill in the art to provide clip in the frontal direction to provide the desired direction for the clip.

The applicant has canceled claim 4.

4. Claims 1,4, and 6 are rejected under 35 USC 103(a) as being un patentable over Duran (D411603) in view of either Kahn (6443342) or Wenkman et al. (4697780). The Examiner states that Duran teaches a horizontal member having two holding clip devices. The Examiner states that Duran meets all claimed limitations except for the vertical arm. The Examiner is of the opinion that either Kahn or Wenkman teaches that it is known in the art to provide a one-piece vertical member 10 and 14 respectively for attaching a holding device. Therefore the Examiner concludes that it would have been obvious to one of ordinary skill in the art to provide a one-piece vertical member as taught by either Kahn or Wenkman to provide an alternative clip.

The applicant has amended claim 1, and believes the claim is allowable as it currently stands based on the following:

Duran does not disclose a hook (element 12 e.g. Figure 4 of the current application) enabling the plumber to adjust the device on a belt. Moreover, Duran nor Kahn or Wenkman teaches the elongated portion with predetermined dimension at the lower end. The importance of these elements in the current invention is discussed above. Based on this combining the teaching of Duran with Kahn or Wenkman would not result in the current invention, which has both the hook and the elongated portion as essential parts of the invention.

Based on this the applicant believes that claim 1 as now amended is allowable. Applicant has canceled claims 4 and 6.

5. Claim 3 is rejected under 35 USC 103(a) as being un patentable over the Duran rejection as set forth in paragraph 4, and further in view of Szalony (4062482).

The applicant has canceled claim 3.

6. Claim 5 is rejected under 35 USC 103 (a) as being un patentable over the either Wenkman or Duran rejection as set forth in paragraphs 1 and 4, and further in view of Greenwood (5857601).

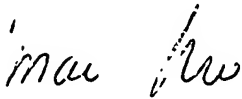
Applicant has canceled claim 5.

CONCLUSION

The applicant has responded to all pending rejections and objections and believes that the claims as currently amended are allowable. The applicant respectfully requests allowance of the standing claims.

DODDS AND ASSOCIATES

By:

A handwritten signature in black ink, appearing to read 'ma' followed by a stylized flourish.

Leea Susanne Somersalo

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